IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 6020 OF 2004
WITH
WRIT PETITION NO. 6022 OF 2004

Karnataka State Co-operative
Marketing Federation Limited. ... Petitioner.

V/s.

Krishna Sahakari Sakhar
Karkhana Limited. ... Respondent.

Dilip Bodake for the petitioner.

L.M.Acharya for the respondent.

CORAM: V.C.DAGA, J.

DATED: 10th March 2006.

P.C.:

. In view of the Apex Court judgment in the case of **Salam Advocates Bar Association v. Union of India**, 2005(6) SCC 344 (p.20, 21), now, it is; not necessary to refer the issue framed in the order dated 13th August, 2004 to a larger bench. This petition can be finally disposed of at this stage only.

2. Heard finally by consent of parties.

Perused petition.

3. The learned counsel appearing for the respondent (original plaintiff) submits that the

order passed by the court below is a reasonable and proper order which needs no interference at the hands of this Court. He, however, submits that in order to cut short the length of the litigation the petitioner (original defendant) may be permitted to file written statement, subject to payment of heavy costs.

4. In view of the consensus between the parties, the petitioner/ defendant, the order to proceed *ex parte* passed in Special Civil Suit No.44/2003 is set aside. Defendant is allowed to file written statement, subject to payment of costs quantified in the sum of Rs.5,000/- in each petition to paid to respondent/ plaintiff. Written statement to be filed within fifteen days from today. Payment of costs shall be the condition precedent.

5. It is needless to mention that after filing of written statement by the defendant, it would be open for the defendant to cross-examine the plaintiff's witnesses and to lead their evidence in accordance with law. Trial Court is directed to proceed with the suit with expeditious despatch. These petitions, thus, are liable to be disposed of in terms of this order.

6. With the disposal of the petitions, civil applications pending herein shall not survive. Civil applications are disposed of as infructuous with no order as to costs.

7. Both the petitions are allowed. Rule is made absolute in terms of this order with no order as to costs.

(V.C.DAGA, J.)